STATEMENT BY TIMOTHY E. DEAL
SENIOR VICE PRESIDENT
UNITED STATES COUNCIL FOR INTERNATIONAL BUSINESS
TO THE
SENATE FINANCE COMMITTEE
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Mr. Chairman, thank you for the opportunity to appear before this Committee to discuss the U.S.-Jordan Free Trade Agreement (FTA) signed last October. I represent the United States Council for International Business (USCIB), which has approximately 300 members including multinational companies, law firms, and trade associations. USCIB seeks to promote an open system of world trade, finance, and investment in which business can flourish and contribute to economic growth, human welfare, and protection of the environment. We advance the views of American business to the U.S. and foreign governments as well as the major international economic institutions.

We also represent U.S. business in the International Chamber of Commerce, the Business and Industry Advisory Committee to the OECD, and the International Labor Organization through our membership in the International Organization of Employers. Our President, Thomas Niles, is the U.S. employers' representative to the ILO's Governing Body and a member of USTR's Trade and Environment Policy Advisory Committee.

The U.S.-Jordan FTA: A Potential Boost to Middle East Peace and Trade Liberalization

Last year, when the Clinton Administration announced its intention to launch free trade negotiations with Jordan, we applauded the initiative on both political and economic grounds. We saw then – as we see now – that the principal attraction of such an agreement is the contribution it could make to the Middle East peace process. That process appears to be on life support at present. The Arabs, and Jordan in particular, must begin to see the economic benefits from the peace process if any agreement is to going to last. In that regard, the Jordanians clearly recognize that an FTA with the U.S. could help build a stable foundation for regional peace. The Clinton Administration deserves praise for pursuing this agreement and for completing the negotiations in a timely fashion.

We also saw an additional benefit to this agreement: it could breathe new life into U.S. efforts to liberalize trade and investment, efforts that have languished since the conclusion of the Uruguay Round. We continue to support policies designed to expand trade and investment opportunities through bilateral FTAs, regional initiatives, and multilateral undertakings within the World Trade Organization (WTO). The agreement with Jordan could be an important step in that direction.

Labor and Environment Provisions in the FTA: An Unnecessary Addition

Given these aspirations, we were concerned from the outset of these negotiations by the decision of the Clinton Administration to introduce labor and environmental provisions into the agreement. We argued, correctly judging from subsequent events, that the inclusion of such provisions in the agreement was undesirable and would prove contentious if and when the agreement came before the Congress, thereby delaying its approval – or even causing its defeat. What was to be an agreement designed primarily to promote Middle East peace has become another vehicle to rehearse tired arguments about the need for trade sanctions to enforce global labor and environmental standards. The domestic political implications of including labor and environment in the body of the agreement were obvious at the time, and its signing on October 24 underlined that fact.

USCIB shares the growing concern and interest in improving the conditions of workers not only in this country, but also globally. We also see the need to protect the ecology of the planet. In our view, the most effective way to address these issues is through international cooperation and the development and implementation of national laws and regulations. Meeting these objectives requires continued economic growth which, in turn, depends on further liberalization of trade and investment.

Where we in the business community part company with the past Administration, organized labor, and environmental groups is over the most effective means to pursue these objectives with other countries, particularly the developing world. Labor and environment groups support a sanctions-based approach, most often unilateral in nature, where trade is used as a club to impose U.S. objectives and standards on other countries. We consider that approach a recipe for unwinding the rule-based trading system in which the U.S. has a vital stake.

Specific Concerns

Let me now turn to our specific concerns about the signed agreement. As Members of this Committee know, Articles 5 and 6 introduce environmental and labor provisions directly into the operational part of the agreement, a first for U.S. trade policy, and probably for trade agreements worldwide. USCIB has consistently argued during the NAFTA debate and since that such provisions should be addressed in side agreements. Further, the emphasis should always be on ways to promote cooperation in the labor and environmental fields, not force compliance through trade measures. Yet, U.S. negotiators chose coercion in the form of trade sanctions. The text is artfully drafted. The key question is what is subject to trade action. Our experts tell us that the inclusion of labor and environment provisions in the body of the agreement can be read to mean that either government may invoke trade sanctions for any violations of Articles 5 and 6.

The dispute settlement provisions of the FTA seemingly would permit the use of trade sanctions as an enforcement mechanism. Article 17, Section 2 (b) is open-ended and

allows either government to take “any appropriate and commensurate measures” for a failure by the other party to carry out its obligations under the agreement, including the environmental and labor commitments under Articles 5 and 6. These “appropriate and commensurate measures” presumably could include unrestricted punitive sanctions.

Why the Specifics Matter

Even though the chances that either Jordan or the U.S. would impose trade sanctions for failure to meet the labor and environmental commitments under the agreement may be remote, the U.S.-Jordan FTA could become, in effect, an important – and unwelcome -- precedent for future trade negotiations. For example, we know that the Clinton Administration sought to insert language on labor and the environment from the Jordan agreement into FTA negotiations with Singapore. No agreement was reached in that case, but the risk of the Jordan agreement becoming a template for other free trade negotiations is real, particularly in negotiations with smaller countries. That is why it is vitally important to get the U.S.-Jordan agreement right even if the commercial stakes are relatively small.

Looking beyond Jordan, we must take account of the attitudes of our other trading partners. We do not negotiate trade in isolation. This agreement will be anathema to many of our trading partners in the developing world because they do not accept the right of other governments to enforce their domestic labor and environmental laws and practices. They also see such an approach as a device for discriminating against their imports and undermining their WTO rights. WTO Director General Mike Moore addressed that point in a speech last week in London where he ruled out the use of trade sanctions to enforce labor and environmental standards. Specifically, on trade and labor Moore said:

> “WTO members will never agree to trade sanctions to enforce labor standards. It is a line in the sand that developing countries will not cross. They fear that such provisions could be abused for protectionist purposes.”

Next Steps

What then is the proper course for dealing with this agreement? Clearly, from our standpoint, the preferred course would be the renegotiation of the agreement to: (a) eliminate the labor and environment provisions; and (b) ensure that the dispute settlement article does not permit retaliatory trade measures for any alleged violation of labor or environmental laws and regulations. We actually have a historic precedent in the case of NAFTA. In 1993, the Clinton Administration took the agreement signed by the Bush Administration and sought, in the words of then US Trade Representative Mickey Kantor, to "improve it” by opening up new negotiations on labor and environment. Those negotiations led ultimately to the NAFTA side agreements on labor and environment. Consequently, those who say the U.S.-Jordan cannot be changed are ignoring our recent history.

Nonetheless, while reopening negotiations of the already signed agreement with Jordan might be desirable, it may not be practical or politically feasible. Given the importance of Jordan to the Middle East peace process, the Bush Administration may not wish to go down that route. And Jordan itself may not wish to reopen the agreement in the present political circumstances. Therefore, a sensible alternative might be the conclusion of a Memorandum of Understanding between the two governments that makes clear that the "appropriate and commensurate measures" referred to in Article 17 do not include trade sanctions at least with respect to the labor and environment provisions.

In our view, the renegotiation of the FTA or the conclusion of a separate Memorandum of Understanding along the lines I described would be the preferred course for the further development of U.S. trade policy. Under those circumstances, no one could argue that this agreement established any kind of precedent for the inclusion of labor and environmental provisions in trade agreements.

Another possibility, though less desirable in my opinion, would be an Administration policy statement or language in the transmittal letter for the agreement to the effect that allowable Article 17 measures do not include trade sanctions for labor and the environment. The problem with that option is that a future Administration could change the policy on its own authority and still be in full compliance with the agreement.

Therefore, we would urge the Congress to make clear in any implementing legislation that trade sanctions are not an authorized response to any perceived violation of the labor and environment provisions of the FTA. We hope the Administration and Congress will work together to address these problems and allow this important political agreement to go into effect as soon as possible.

Conclusion

In closing, let me say that USCIB members fully support a concept of sustainable development that recognizes the importance of improving labor and environmental standards, while encouraging economic growth and trade. We believe that there are more effective and less contentious alternatives to trade sanctions to promote internationally higher levels of environmental protection and labor standards. These include multilateral environment agreements, *The ILO Declaration of Fundamental Principles and Rights at Work and its follow-up*, and capacity building efforts in developing countries. A positive, forward-looking approach stressing cooperation, not coercion, is what our trading partners should expect from the world's political and economic leader.